Supreme Court, U. S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1977

No. 77-1190

ALL ISLAND DELIVERY SERVICE, INC.,
FEUER TRANSPORTATION, INC.,
JOHN A. JUNGERMAN SON, INC.,
PINTER BROS., INC.,
TROIANO EXPRESS CO., INC.,

Petitioners,

v.

UNITED STATES OF AMERICA and
INTERSTATE COMMERCE COMMISSION ET AL.,

Respondents.

Brief Of Respondents Drug And Toilet Preparation Traffic Conference Eastern Industrial Traffic League National Small Shipments Traffic Conference, Inc. In Opposition To Petition For Writ Of Certiorari

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QUESTIONS PRESENTED

Section 5a of the Interstate Commerce Act confers antitrust immunity on carriers for price fixing carried on under an agreement approved by the Interstate Commerce Commission (Commission). In an investigation instituted to determine whether it should require amendment of any Section 5a agreements, the Commission prescribed, as a condition of

continued approval of such agreements, a requirement that they be amended to prohibit the protesting by a rate bureau of rates proposed by a member carrier individually and published by the rate bureau as publishing agent for such member carrier.

The questions presented are whether the foregoing condition is beyond the lawful powers of the Commission because impermissible (a) under the statute; or (b) under the First Amendment to the Constitution.

STATUTORY PROVISIONS

Sections 5b and 13(1) of the Interstate Commerce Act, 49 U.S.C. §5c, 49 U.S.C. §13(1) (not included in Appendix E to the Petition), are included in the appendix to this brief.

STATEMENT OF THE CASE

Section 5a of the Interstate Commerce Act (49 U.S.C. §5b) authorizes the Commission to approve agreements among carriers for the collective establishment of rates and relieves the carriers from the operation of the antitrust laws with respect to the carrying out of approved agreements in accordance with (1) their provisions and (2) the terms and conditions of approval prescribed by the Commission. The standards for approval are clearly stated in the Act. The Commission is directed to approve a Section 5a agreement *only* if it finds that its approval will be in furtherance of the National Transportation Policy and *only* upon such terms and conditions as it may prescribe as necessary to assure that result (Section 5a(2)). Approval of an agreement which does not accord member carriers the "free and unrestrained right to take independent action" is expressly prohibited (Section 5a(6)).

Section 5a agreements are carried out through rate bureaus, which are organizations created by the parties to each such agreement. The rate bureaus are the means by which the carriers meet and establish rates collectively; they also serve as publishing agents for their members. For many years, rate bureaus have followed the practice of protesting rates proposed by individual carrier members which they did not approve. In the typical situation, a member carrier asks the bureau to publish a rate on a lower level than that established by the Bureau for its members generally. The bureau publishes the rate for the individual carrier but, when the rate is published, it files a protest with the Commission and asks for suspension. If the Commission then orders an investigation, the rate bureau presents testimony and briefs challenging the lawfulness of the rate. The rate bureaus are staffed with attorneys and technicians who are well-equipped to file protests and to litigate the lawfulness of a rate. The individual carrier is thus faced with the burden and expense of defending its proposal against well-financed opposition; and it must, moreover, bear a share of the expense incurred by the rate bureau in challenging its proposal.

Section 5a(7) authorizes the Commission to conduct investigations to determine whether previously approved agreements conform to the statutory standards and to modify the terms and conditions on which approval was granted if it finds such action to be necessary to insure conformity with the statutory standard. In Ex Parte No. 297, the Commission entered into an investigation of the activities of rate bureaus for the purpose of determining whether it should require that any such agreements be amended.

Following completion of its investigation, the Commission issued its Report and Order on June 16, 1975. In response to contentions by shippers and their trade associations that protests by bureaus against the rates of their members constitute

"intimidation and coercion of smaller or 'innovative' carriers who do not possess the resources to defend their proposals against the collective weight, funds, and expertise of the bureaus" (Pet. App. 49a), the Commission found that "selective protests can be an [sic] effective as mass protests to obstruct competition and choke rate initiatives" (*Id.* 50a), that "using the bureaus as a method of policing the independent actions of a few carriers has the practical effect of stifling competition" (*Id.* 51a), and that "to continue to allow rate bureaus to protest the independent action proposals of member carriers would be an abuse of the administrative process...." (*Id.* 51a).[1]

The Commission ordered "[T]hat rate bureaus be, and they are hereby, prohibited from protesting proposals of member carriers" (*Id.* 67a) and "[T]hat member carriers of rate bureaus be, and they are hereby, required to file appropriate amendments to their respective agreements consistent with the requirements, standards, and findings set forth in the attached report...." (*Id.* 67a)

Section 5a(10) provides that the only effect of action by the Commission in prescribing terms and conditions of approval of Section 5a agreements, or modifying such terms and conditions, is to withdraw antitrust immunity if the terms and conditions are not met. The effect of the Commission order, therefore, was to

[1]In its Report and Order on Reconsideration issued January 30, 1976, the Commission further found that "bureau protests are a deterrent to individual member carriers' free and unrestrained right of independent action," that "[T]he protests by the rate bureaus of independent action proposals does inhibit competition" (*Id.* 91a) and that "In order to prevent any threat to the free and unrestrained right of carrier independent action, the public interest and furtherance of the national transportation policy require that we condition our approval of an agreement against bureau protests of members' independent action proposals." (*Id.* 90a)

withdraw antitrust immunity unless the required amendments were made.

The Report and Order on Reconsideration modifies the June 16, 1975 order by requiring that the amendments to Section 5a agreements prohibit only the protesting of proposals filed by the rate bureau as tariff publishing agent. Pending further study by the Commission, the bureaus are free to protest rates of their members which are published in an individual carrier's tariff. (Pet. App. 93a)

The Commission's order was affirmed by the Court below in an opinion by Mr. Justice Clark (Pet. App. A) and was again affirmed on rehearing (Pet. App. B).

The Petition raises only constitutional and statutory issues. No issue is presented as to whether the condition prescribed by the Commission lacks a rational basis (*Bowman Transp., Inc. v. Arkansas-Best Freight System, Inc.*, 419 U.S. 281, 290 (1974)) or is otherwise improper.

ARGUMENT

I.

The Statutory Issue Is Not Substantial

In granting to carriers the right to fix rates by concerted action with antitrust immunity, the Congress vested in the Commission a broad discretion to surround its approval of Section 5a agreements with the safeguards necessary to insure that that freedom not be abused. The Act requires the Commission to approve Section 5a agreements only on such terms and conditions as it deems necessary to insure that its

approval will be in furtherance of the National Transportation Policy. The Commission is also required to exercise continuing supervision and to impose additional terms and conditions as deemed necessary to accomplish that objective. Furthermore, the Congress has made very clear that, in any Section 5a agreement, the individual carrier's "free and unrestrained right to take independent action" must be preserved.

Petitioners' basic argument is that the general language of Section 216(e) of the Interstate Commerce Act (Pet. App. 106a), which authorizes any "organization" to protest rates, must take precedence over the later enacted and more specific provisions in Section 5a. It is the responsibility of the Commission to harmonize Sections 5a and 216(e) and it has done so in a manner consistent with the Congressional purpose.[2] This case, therefore, comes within the "venerable principle that the construction of a statute by those charged with its execution should be followed unless there are compelling indications that it is wrong." *Columbia Broadcasting Sys., Inc. v. Democratic Nat. Com.*, 412 U.S. 94, 121 (1973) quoting *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, 381 (1969) and the related principle that the determination of a federal agency "is entitled to acceptance unless it lies outside the range of permissible choices contemplated by the statute..." *Hardin v. Kentucky Utilities Company*, 390 U.S. 1, 8 (1968).

[2]Section 216(e) is included in Part II of the Interstate Commerce Act which applies to motor carriers. Section 13(1), the comparable provision in Part I which applies to railroads, also authorizes any "organization" to protest rates (App. p.). When the Congress revised Part I in the Railroad Revitalization and Regulatory Reform Act of 1976, it expressly prohibited the Commission from approving any agreement between railroads which permits a railroad rate bureau to protest rates established by independent action (App. p.). It is significant that the Congress did not find that this amendment required an amendment limiting the scope of Section 13(1).

Petitioners argue that:

> The only authority Section 5a gives the ICC is the authority to approve agreements relating to the "joint consideration, initiation or establishment" of rates and charges, *i.e.*, agreements between carriers to collectively make their rates. (Pet. p. 12)

Petitioners overlook the statutory grant of authority to the Commission to condition its approval of agreements to insure that they comply with the statutory standard. The statutory authorization to impose such conditions as the Commission deems necessary specifically includes the right to impose conditions which will prevent rate bureaus from taking action which interferes with the free and unrestrained right of members to take independent action; and the Commission has found that the filing of protests by bureaus against their own members' rates does deter the exercise of that right. The Commission has said that it will not authorize antitrust immunity to a rate bureau unless the bureau agrees that it will not engage in protesting the independent rate actions of its members. It has thus attached to the antitrust immunity for joint price-fixing a condition which is directly related to that function and which, therefore, is clearly authorized by the statute.

II.

The First Amendment Issue Is Not Substantial

These Respondents agree with Petitioners that the protesting of proposed rates filed with the Commission is "speech" within the meaning of the First Amendment. It does not follow, however, that the condition imposed by the Commission's order is unconstitutional. In the exercise of its

constitutional powers, the Government can impose reasonable restraints on the exercise of functions falling within the descriptive scope of the First Amendment freedoms.

The basic fallacy in Petitioners' position is the assumption that First Amendment freedoms can be restrained only where it is established that they are being used with an evil intent. The right of the Government to impose reasonable restraints on the exercise of First Amendment freedoms has never been that rigidly circumscribed. The controlling principles are set out in *United States v. O'Brien*, 391 U.S. 367, 377 (1968) as follows:

> . . . a government regulation is sufficiently justified if it is within the constitutional power of the Government; if it furthers an important or substantial governmental interest; if the governmental interest is unrelated to the suppression of free expression; and if the incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest.

The limitation on the right to protest here involved meets all of these tests.

The Interstate Commerce Act was enacted by the Congress in the exercise of its constitutional power to regulate interstate commerce. Its objectives (including economical and efficient service and reasonable rates) are set out in the National Transportation Policy (Pet. App. 101a-102a). In Section 5a, Congress sought to achieve a balance between the need of carriers to take joint action on rates and the public interest in preserving competition.

The privilege conferred upon the carriers by Section 5a is an extraordinary one. It is nothing less than the right to take action

which would be criminal in the unregulated sector of the economy. Such a grant of immunity must be narrowly construed.[3] In the absence of Section 5a, rate bureaus probably would not even exist; certainly they could not engage in the concerted fixing of rates without violating the antitrust laws[4]—and, absent the immunity to fix common rates, they would have no opportunity to take on the function of protesting non-conforming rates of their member carriers.

The restriction imposed by the Commission is narrowly drawn and no greater than necessary. Individual carriers can protest the rate of any other carrier and two or more carriers can join together to do so. For it is only the action of the rate bureau and not that of its individual members that is proscribed. Antitrust immunity is lost only if the bureau insists on carrying on a program of protesting rates published by it as agent for its member carriers.

Petitioners would construe the First Amendment as a straight-jacket which prevents the Federal Government from carrying out its responsibilities under the Commerce Clause in a rational manner designed to achieve proper governmental objectives. They must concede that the government need not permit carriers to engage in concerted price fixing. But they argue that the government has only two options: to deny this privilege to the bureaus or to permit them also to force their members to hold the line on rates by protesting non-conforming rates proposed by their members. Surely, the Constitution is

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[3] *Cf. Otter Tail Power Co. v. United States*, 410 U.S. 366 (1973); *United States v. National Ass'n of Sec. Dealers, Inc.*, 422 U.S. 694 (1975).

[4] *United States v. Trans-Missouri Freight Assn.*, 166 U.S. 290 (1897); *State of Georgia v. Pennsylvania R. Co.*, 324 U.S. 439 (1945).

sufficiently flexible to accord government the further option of permitting price fixing with antitrust immunity on condition that the rate bureaus not take the further step of stifling competition by protesting non-conforming rates of their members.

The present case is controlled by cases such as *American Communications Ass'n v. Douds*, 339 U.S. 382 (1950), and *United Public Workers v. Mitchell*, 330 U.S. 75 (1947). *Douds* upheld, against a First Amendment challenge, the provision of Section 9(h) of the Labor Management Relations Act of 1974, which conditioned recognition of a labor union on the filing of non-communist affidavits by its officers. The rationale of the Court was that the infringement of First Amendment freedoms was not undue and that "the remedy provided by §9(h) bears reasonable relation to the evil which the statute was designed to reach."[5] (339 U.S. at 390-391)

In *Mitchell*, this Court upheld the constitutionality of the Hatch Act which prohibits political activity by federal employees. The rationale of *Mitchell* was summarized by the Court in *Douds* as follows:

> The decision was not put upon the ground that government employment is a privilege to be conferred or withheld at will.... But the rational connection between the prohibitions of the statute and its objects, the limited scope of the abridgment of First Amendment rights, and the large public interest in the efficiency of government service, which Congress had found necessitated the statute, led us to the conclusion that the statute may stand consistently with the First Amendment. (339 U.S. at 405)

[5]It should be noted that, were the court to hold that the Commission's action violates the First Amendment, it would follow that Section 5b(5)(a) of the Interstate Commerce Act (App. p.) is also unconstitutional. Since this subsection is an express condition on the grant of antitrust immunity in Section 5b, it is not a separable provision and the grant of immunity would fall with it. *Carter v. Carter Coal Co.*, 298 U.S. 238, 312-316 (1936).

Bates v. State Bar of Arizona, 433 U.S. 350 (1977) and *Va. St. Bd. of Pharm. v. Va. Cit. Cons. Council*, 425 U.S. 748 (1976), the cases primarily relied on by Petitioners, are not in point. Those cases hold only (1) that commercial speech is protected by the First Amendment and (2) that the state had shown no state interest sufficient to justify the ban on advertising.

Petitioners' reliance on *Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc.*, 365 U.S. 127 (1961) and *United Mine Workers of America v. Pennington*, 381 U.S. 657 (1965) is also misplaced. Those cases hold that it is not a violation of the antitrust laws for parties to join together to seek governmental action. That issue is not presented in this case.[6] What is involved is the validity of a condition to a grant of antitrust immunity which was found necessary to achieve a valid statutory purpose and to protect the public interest. The prescribed condition is clearly permissible; it does not present a substantial First Amendment question.

[6]Petitioners argue that this case does not come within the exception to the *Noerr-Pennington* doctrine spelled out in *California Motor Transport v. Trucking Unlimited*, 404 U.S. 508 (1972) that joining together to seek governmental action is a violation of the antitrust laws if the purpose is to harass and deter competition. Since this case does not come within the *Noerr-Pennington* doctrine at all, it is not necessary to consider whether it comes within the *California Transport* exception to that doctrine.

CONCLUSION

The writ of certiorari prayed for by Petitioners should be denied.

Respectfully submitted,

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APPENDIX

INTERSTATE COMMERCE ACT

Section 5b, 49 U.S.C. §5c

§5c. Agreements between common carriers by railroad subject to this chapter

Definitions

(1) As used in this section, the term—

(a) "affiliate" means any person directly or indirectly controlling, controlled by, or under common control or ownership with, any other person, and as used in this subdivision, the term (i) "control" has the same meaning as in section 1(3)(b) of this title; and (ii) "ownership" refers to equity holdings of 5 per centum or more in any business entity;

(b) "antitrust laws" means the Act of July 2, 1890, as amended, the Act of October 15, 1914, as amended, the Federal Trade Commission Act, sections 73 and 74 of the Act of August 27, 1894, as amended, and chapter 592 of the Act of June 19, 1936, as amended; and

(c) "carrier" means any common carrier by railroad subject to this chapter.

Application to Commission for Approval of Agreements; Rules and Regulations; Criteria

(2) Any carrier which is a party to an agreement, between or among two or more carriers, relating to rates, fares, classification, divisions, allowances, or charges (including charges between carriers and compensation paid or received for

the use of facilities and equipment), or rules and regulations pertaining thereto, or procedures for the joint consideration, initiation, or establishment thereof, shall, under such rules and regulations as the Commission shall prescribe, apply to the Commission for approval of such agreement. The Commission shall, by order, approve any such agreement if approval thereof is not prohibited by paragraph (4) or (5) of this section and if it finds that, by reason of furtherance of the national transportation policy declared in this Act, the relief provided in paragraph (8) of this section should apply with respect to the making and carrying out of such agreement; otherwise the application shall be denied. No such approval shall be granted or continued (a) if any of the terms and conditions which are prescribed under the last sentence of this paragraph are violated or not complied with, or (b) unless the Commission receives a verified written statement (and any written supplement or addendum thereto requested by the Commission) setting forth, with respect to each carrier which is a party to such agreement (i) its name, (ii) the mailing address and telephone number of its headquarter's office, (iii) the names of each of its affiliates, (iv) the names, addresses, and affiliations of each of its officers and directors and of each person who, together with any affiliate, owns or controls any debt, equity, or security interest in it having a value of $1,000,000 or more, and (v) such other information as the Commission directs to be included. The approval of the Commission shall be granted only upon such terms and conditions as the Commission determines are necessary to enable its approval to be granted in accordance with the standard set forth in this paragraph.

Maintenance of Accounts and Records by Conferences, Bureaus, Committees, Etc.; Investigative and Reporting Powers of Commission

(3) Each conference, bureau, committee, or other organization established or continued pursuant to any agreement

approved by the Commission under the provisions of this section shall maintain such accounts, records, files, and memoranda and shall submit to the Commission such reports, as may be prescribed by the Commission. All such accounts, records, files, and memoranda shall be subject to inspection by the Commission may conduct investigations, make reports, issue subpoenas, conduct hearings, require the production of relevant documents, records, and property, copy and verify the correctness of information subject to inspection, and take depositions (a) to determine whether any such conference, bureau, committee, or other organization, or any carrier which is a party to any such agreement, has acted or is acting in compliance with the provisions of this section, regulations issued under this section, and the public interest, (b) to determine whether any such organization or carrier is inhibiting an efficient utilization of transportation resources or has established practices which are inconsistent with efficient, flexible, and economic operation, and (c) for such other purposes as the commission considers appropriate.

Pooling or Division Agreements

(4) The Commission shall not approve under this section any agreement which it finds is an agreement with respect to a pooling, division, or other matter or transaction to which section 5 of this title is applicable.

Agreements for Determining Matters Through Joint Consideration; Limitations

(5)(a) The Commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration, unless

it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action, without fear of any sanctions or retaliatory action, at any time before or after any determination arrived at through such procedure. In no event shall any conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under the provisions of this section—

(i) permit participation in agreements with respect to, or any voting on, single-line rates, allowances, or charges established by any carrier;

(ii) permit any carrier to participate in agreements with respect to, or to vote on, rates, allowances, or charges relating to any particular interline movement, unless such carrier can practicably participate in such movement; or

(iii) permit, provide for, or establish any procedure for joint consideration or any joint action to protest or otherwise seek the suspension of any rate or classification filed by a carrier of the same mode pursuant to section 15(8) of this title where such rate or classification is established by independent action.

As used in clause (i) of this subdivision, a single-line rate, allowance, or charge is one that is proposed by a single carrier applicable only over its own line and as to which the service (exclusive of terminal services provided by switching, drayage, or other terminal carriers or agencies) can be performed by such carrier.

(b) The limitations set forth in subdivision (a) shall not be applicable to—

(i) general rate increases or decreases, if the agreements accord the shipping public, under specified procedures, adequate notice of at least 15 days of such proposals and an opportunity to present comments thereon, in writing or otherwise, prior to the filing with the Commission of the tariffs containing such increases or decreases, or

(ii) broad tariff changes if such changes are of general application or substantially general application throughout a territory or territories within which such changes are to be applicable.

In any proceeding in which it is alleged that a carrier voted or agreed upon a rate, allowance, or charge, in violation of the provisions of this section, the party alleging such violation shall have the burden of showing that such vote or agreement occurred. A showing of parallel behavior is not, by itself, sufficient to satisfy such burden.

Investigation of Prior Approved Agreements; Termination or Modification of Approval; Effective Date; Review of Approval; Report to President and Congress; Termination or Suspension of Approval

(6)(a) The Commission is authorized, upon complaint or upon its own initiative without complaint, to investigate and determine whether any agreement previously approved by it under this section, or terms and conditions upon which such approval was granted, is not or are not in conformity with the standards set forth in paragraph (2) of this section and with the public interest, and whether any such terms and conditions are not necessary or whether any additional or modified terms and conditions are necessary for purposes of conformity with such

standard. After any such investigation the Commission shall, by order, terminate or modify its approval of such an agreement if it finds such action necessary to insure conformity with such standard, and shall modify the terms and conditions upon which such approval was granted to the extent it finds necessary to insure conformity with such standard or to the extent to which it finds such terms and conditions not necessary to insure such conformity. The effective date of any order terminating or modifying approval, or modifying terms and conditions, shall be postponed for such period as the Commission determines to be reasonably necessary to avoid undue hardship.

(b) The Commission shall periodically, but not less than once every 3 years, review each agreement which the Commission has by order approved under this section to determine whether such agreement, or any conference, bureau, committee, or other organization established or continued pursuant to such agreement, still conforms with the standard set forth in paragraph (2) of this section and the public interest, and to evaluate the success and effect upon the consuming public and the national rail freight transportation system of such agreement and organization. The Commission shall report to the President and to the Congress on the results of such reviews, as part of its annual report pursuant to section 21 of this title. If the Commission makes a determination that any such agreement or organization is no longer in conformity with such standard, the Commission shall by order terminate or suspend its approval thereof.

Hearings

(7) No order shall be entered under this section except after interested parties have been afforded a reasonable opportunity for a hearing.

Relief From Operation of Antitrust Laws

(8) Parties to any agreement approved by the Commission under this section and other persons are, if the approval of such agreement is not prohibited by paragraph (4) or (5) of this section, hereby relieved from the operation of the antitrust laws with respect to the making of such agreement, and with respect to the carrying out of such agreement in conformity with its provisions and in conformity with the terms and conditions prescribed by the Commission.

Applicability of Commission's Action

(9) Any action of the Commission under this section (a) in approving an agreement, (b) in denying an application for such approval, (c) in terminating or modifying such approval, (d) in prescribing the terms and conditions upon which such approval is to be granted, or (e) in modifying such terms and conditions, shall be construed as having effect solely with reference to the applicability of the relief provisions of paragraph (8) of this section.

Periodic Assessment and Report by Federal Trade Commission to Commission Regarding Agreements, Etc.; Consultations; Availability of Report

(10) The Federal Trade Commission, in consultation with the Antitrust Division of the Department of Justice, shall periodically prepare an assessment of, and shall report to the Commission on (a) any possible anticompetitive features of (i) any agreements approved or submitted for approval under this section, and (ii) any conferences, bureaus, committees, or other organizations operating under such agreements, and (b) possible

ways to eliminate or alleviate any such anticompetitive features, effects, or aspects in a manner that will further the goals of the national transportation policy and this Act. The Commission shall make such reports available to the public.

Time for Final Disposition of Rule, Rate or Charge Docketed With Conferences, Bureaus, Committees, Etc.

(11) Any conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under this section shall make a final disposition with respect to any rule, rate, or charge docketed with such organization within 120 days after such proposal is docketed.

Feb. 4, 1887, c. 104, Part I, §5b, as added Feb. 5, 1976, Pub.L. 94-210, Title II, §208(b), 90 Stat. 42, and amended Oct. 19, 1976, Pub.L. 94-555, Title II, §220(k), 90 Stat. 2630.

Section 13(1), 49 U.S.C. §13(1)

Complaints To and Investigations By Commission

Complaint to Commission of Violation of Law By Carrier; Reparation; Investigation

(1) Any person, firm, corporation, company, or association, or any mercantile, agricultural, or manufacturing society or other organization, or any body politic or municipal organization, or any common carrier complaining of anything done or omitted to be done by any common carrier subject to the provisions of this chapter in contravention of the provisions

thereof, may apply to said Commission by petition, which shall briefly state the facts; whereupon a statement of the complaint thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to satisfy the complaint, or to answer the same in writing, within a reasonable time, to be specified by the Commission. If such common carrier within the time specified shall make reparation for injury alleged to have been done, the common carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier or carriers shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.